

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2465 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

AHMEDABAD MUNICIPAL CORPORATION

Versus

BANK OF BARODA

Appearance:

MR MG NAGARKAR for Petitioner
MR RD DAVE with Mr. H.R.Shah for Respondent No. 1

CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE D.P.BUCH

Date of decision: 04/07/2000

ORAL JUDGEMENT

1. This appeal is filed by Municipal Corporation of Ahmedabad challenging judgment and order dated February 2, 1995, passed by learned Judge, Court No.3, Small Causes Court, Ahmedabad, in Municipal Valuation Appeal No.10229 of 1986, by which, learned Judge reduced rateable value from Rs.4,24,900 to Rs.3,04,812 for Assessment Year 1986-87.
2. Respondent-Bank of Baroda had filed abovenumbered

Municipal Valuation Appeal against the assessment of GRV at Rs.4,24,900/- made by the appellant for the premises bearing Survey No.498-Paiki, Final Plot No.498/1/3 of Ellisbridge "B" Ward. Admittedly, the respondent was paying rent of Rs.25401/- per month to the landlord and the tax was to be borne by the tenant. The Corporation assessed GRV for the year 1986-87 at the rate of Rs.4,24,900/- which included rent and tax, which was admittedly to be paid by the tenant. It is settled legal principle that, if tax is to be borne by the tenant, the same has to be included with rent for arriving at GRV of the premises. (See: 1993 (1) GLH p.180 (FB): Municipal Corporation of City of Ahmedabad vs. Canara Bank, Ahmedabad). In view of the settled principle, the order of the Small Causes Court deserves to be quashed and set aside. The matter is remanded to the Small Causes Court and the Small Causes Court is directed to decide the appeal in view of the decision of the Full Bench of this Court reported in 1993 (1) GLH p.180 (FB): Municipal Corporation of City of Ahmedabad vs. Canara Bank.

3. As a result of foregoing discussion, this appeal is allowed. The judgment and order dated February 2, 1995, passed by learned Judge, Court No.3, Small Causes Court, Ahmedabad, in Municipal Valuation Appeal No.10229 of 1986, is quashed and set aside. The matter is remanded to the Small Causes Court, Ahmedabad, with direction that this being old appeal shall be decided within the period of three months from the date of receipt of this order. R & P is ordered to be sent forthwith. There shall be no order as to costs.

(swamy)